

87022 PLAN OF OPERATION**87022**

- (a) At the time of application each applicant shall submit to the licensing agency a written, definitive plan of operation.
- (b) The plan and related materials shall contain the following:
 - (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures regarding acceptance of children.
 - (3) A copy of the admission agreement.
 - (4) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the use intended, room dimensions, and a designation of the rooms to be used for nonambulatory children if any.
 - (5) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens recreation areas and other space used by children.
 - (A) The sketch shall include the dimensions of all areas which will be used by the children.
 - (6) Transportation arrangements for children who do not have independent arrangements.
 - (7) A statement whether or not the licensee will handle the children's money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall be pursuant to Sections 87025 and 87026.
 - (8) Consultant and community resources to be utilized as part of the home's program.
 - (9) A statement of the facility policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.
 - (A) This policy shall be consistent with the child's services plan.

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87022 PLAN OF OPERATION (Continued)**87022**

- (B) To the extent that the visiting policy is consistent with the child's services plan, this policy shall also be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility as provided in Section 1512 of the Health and Safety Code.
- (c) Any changes in the plan of operation which affect the services to children shall be subject to licensing agency approval and shall be reported as specified in Section 87061.
- (d) The home shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1512, 1520 and 1531, Health and Safety Code.

87023 DISASTER AND MASS CASUALTY PLAN**87023**

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
 - (1) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for children.
 - (D) Arrangements for supervision of children during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.

87023 DISASTER AND MASS CASUALTY PLAN (Continued)**87023**

- (c) The licensee shall instruct all children, age and abilities permitting, and/or members of the household in their duties and responsibilities under the plan.
- (d) The licensee shall conduct disaster drills at least every six months.
 - (1) Completion of such drill shall not require the licensee to transport children away from the home or to contact local agencies or other disaster authorities.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87024 WAIVERS AND EXCEPTIONS**87024**

- (a) Unless prior written licensing agency approval is received as specified in (b) below, a licensee shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, qualifications, or the conduct of experimental or demonstration projects under the following circumstances:
 - (1) Such alternatives shall in no instance be detrimental to the health and safety of any child.
 - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

87024 WAIVERS AND EXCEPTIONS (Continued)**87024**

HANDBOOK BEGINS HERE

- (3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

HANDBOOK ENDS HERE

- (4) The licensing agency shall provide written approval or denial of the request.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1509, 1525.5 and 1531, Health and Safety Code.

87025 BONDING**87025**

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of children and the maximum amount of cash resources to be safeguarded for all children or each child in any month.
- (b) All licensees who are entrusted to care for and control children's cash resources shall file or have on file with the department or licensing agency, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 OR LESS	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of children's cash resources in excess of the current bond.

87025 BONDING (Continued)**87025**

- (e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection to children's cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the children's cash resources.
- (f) The provisions of this section shall only apply if the licensee safeguards more than \$50 per child and more than \$500 for all children in any month as specified in Health and Safety Code Section 1560.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1525.5, 1560 and 1561, Health and Safety Code.

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES**87026**

- (a) A licensee shall not be required to accept for admission or continue to care for any child whose initial or subsequent needs and services plans would require the licensee to handle the child's cash resources.
- (b) If such a child is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the home, who has been designated by the child's authorized representative, shall be handled by the licensee and shall be safeguarded in accordance with the requirements specified in (c) through (m) below.
- (c) A licensee shall be permitted to accept appointment and serve as guardian for the person, or estate, or person and estate, of a child.
 - (1) Such appointment shall be reported to the licensing agency as specified in Section 87061(h)(1).
- (d) Cash resources personal property, and valuables of children shall be maintained free from any liability the licensee incurs.
- (e) Cash resources and personal property and valuables of children shall be separate and intact, and shall not be commingled with the licensee's funds or petty cash.
- (f) The licensee shall not make expenditures from children's cash resources for any basic services specified in these regulations, or for any basic services identified in the child's admission agreement.

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, 87026
AND VALUABLES (Continued)

- (g) The licensee shall not commingle cash resources, personal property and valuables of children with those of another community care facility of a different license number regardless of joint ownership.
- (h) The licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:
 - (1) Records of each child's cash resources maintained as a drawing account which shall include a current ledger accounting, with columns for income, disbursements and balance and supporting receipts for purchases.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of any child, the licensee shall deposit any of the child's cash resources entrusted to the licensee and not kept in the home, in any type of bank, savings and loan, or credit union account meeting the following requirements:
 - (1) The account shall be maintained separately from the personal or business accounts of the licensee.
 - (2) The account title shall clearly note that the account contains the child's cash resources.
 - (3) The licensee shall provide the child access to the cash resources upon demand by the child's authorized representative.
 - (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept in the home shall be kept in a locked and secure location.

**87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES (Continued)****87026**

- (k) When a child leaves placement in the home, the licensee shall surrender all of the child's cash resources, personal property, and valuables which have been entrusted to the licensee to the child's authorized representative.
- (1) The licensee shall obtain and retain a receipt signed by the authorized representative.
- (l) Upon the death of a child the licensee shall immediately safeguard all cash resources, personal property and valuables of that child in accordance with the following requirements:
- (1) All cash resources shall be placed in an account as specified in (i) above.
- (2) The executor or the administrator of the estate be notified by the licensee of the child's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed itemized receipt.
- (3) If no executor or administrator has been appointed, the authorized representative shall be notified by the licensee of the child's death, and the cash resources, personal property, and valuables shall be surrendered to the authorized representative in exchange for a signed itemized receipt.
- (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the child's death to the public administrator of the county as provided by Section 1145 of the California Probate Code.
- (m) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value \$100, provided by or on behalf of a child to the licensee.
- (1) The record shall be attached to the accounts specified in (h) above if the child's cash resources, personal property or valuables have been entrusted to the licensee.
- (2) Monetary gifts or valuables given by the friends or relatives of a deceased child shall not be subject to the requirements specified in (m) and (m)(1) above.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1525.5, 1531 and 1560, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

HANDBOOK BEGINS HERE

- (a) The licensing agency shall complete the following as part of the application review process:
- (1) A site visit to the proposed foster family home and a determination of the qualifications of the applicant.
 - (2) A determination that the applicant has secured a fire clearance from the State Fire Marshal, if required.
 - (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this chapter as specified in Health and Safety Code Section 1520.
 - (4) A determination that the home complies with the provisions of the Community Care Facilities Act and the regulations in this chapter.

HANDBOOK ENDS HERE

- (b) If the applicant has not submitted all materials specified in Section 87018 within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant that the application is incomplete.
- (1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn, provided that the licensing agency has not denied or taken action to deny the application.
- (c) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1520.3 provides:
- (a) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was previously issued a license under this chapter or under Chapter 1 (commencing with Section 1200), or Chapter 2 (commencing with Section 1250), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.
- (b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall cease further review of the application under either of the following circumstances as follows:
- (1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
- (2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

HANDBOOK CONTINUES

87027 APPLICATION REVIEW (Continued)**87027**

HANDBOOK CONTINUES

The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence. The cessation of review shall not constitute a denial of the application.

HANDBOOK ENDS HERE

- (2) "Application was denied within the last year" as specified in Health and Safety Code Section 1520.3(b) shall include initial or renewal applications.
- (3) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
 - (A) A fire clearance previously denied, but now approved;
 - (B) A licensee who did not meet the minimum qualifications, but now fulfills the qualifications; or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.
- (4) This review shall not constitute approval of the application.
- (5) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

NOTE: Authority cited: Sections 1523, 1524, 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1520.3, 1523, and 1524, Health and Safety Code.

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87028 CAPACITY DETERMINATION**87028**

- (a) A license shall be issued for a specific capacity.
- (b) The number of children for whom the foster family home is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The licensee's ability to comply with applicable law and regulations.
 - (2) Any other household members including but not limited to children under guardianship or conservatorship, who reside at the facility and their individual needs.
 - (3) Facilities which accept a minor parent and his/her child(ren) shall have such child(ren) included in the facility's licensed capacity.
 - (4) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
- (c) The licensing agency shall be authorized to issue a license for fewer children than is requested when the licensing agency determines that the licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer children than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's right to appeal the decision as specified in Section 87040.
- (e) The licensing agency shall be authorized to restrict care to specific children.
 - (1) If care is limited to specific children, the licensing agency shall specify the names of the children in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 87040.

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87028	CAPACITY DETERMINATION (Continued)	87028
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(f) The licensing agency shall have the authority to decrease the existing licensed capacity, with the licensee's agreement, when there is a change in any of the factors specified in (c) above.

- (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 87042.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501 and 1531, Health and Safety Code.

87029 WITHDRAWAL OF APPLICATION**87029**

- (a) An applicant shall have the right to withdraw an application for an initial or renewal license.
- (1) Such withdrawal shall be in writing.

HANDBOOK BEGINS HERE

- (b) Health and Safety Code Section 1553 provides that the licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520 and 1553, Health and Safety Code.

87030 PROVISIONAL LICENSE**87030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 87031 or 87040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The home has no serious deficiencies as defined in Section 87001s.(1).
- (2) There is a change in home location and children currently in care are in need of services from the same licensee at the new location.
- (b) The capacity of a provisional license shall be limited to the number of children currently in care or the capacity established for the specific home whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

87030 PROVISIONAL LICENSE (Continued)**87030**

- (e) If, during the provisional licensing period, the licensing agency discovers any deficiencies the department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1525.5, Health and Safety Code.

87031 ISSUANCE OF LICENSE**87031**

- (a) The licensing agency shall issue a license to the applicant after a completed application has been completed, and upon determination that all licensing requirements have been met.
- (b) The licensing agency shall notify the applicant in writing of such issuance.
- (c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (1) Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1509, 1520, 1520.5, 1524, 1525, 1526 and 1531.5, Health and Safety Code.

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87032 TERM OF AN INITIAL OR RENEWAL LICENSE**87032**

- (a) Except as provided in Section 87030 an initial license shall expire one year from the date of issue as specified in Health and Safety Code Section 1524.
- (b) The licensing agency shall have the authority to issue a renewal license for one year if it determines that the licensee or the home, at the time of the renewal visit, has no serious deficiencies.
- (c) A licensee shall qualify for a two-year license renewal, provided the licensee has completed a course, training, seminar or conference each year, during the previous licensed period, in areas related to the provision of foster family home care, and, at the time of the renewal visit is in compliance with applicable law and regulation.
 - (1) Documentation as specified in 87017(c)(2)(A), (B), and/or (C) shall be submitted with the renewal application.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1524 and 1525, Health and Safety Code.

87033 APPLICATION FOR RENEWAL OF LICENSE**87033**

- (a) An application for the renewal of a license shall be filed on a form provided by the licensing agency not less than 30 days prior to the license expiration date or at the time of initial application.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 provides that failure to make application for renewal within the prescribed time limit shall result in expiration of the license and the home shall be unlicensed.

HANDBOOK ENDS HERE

- (b) The renewal license shall be granted if the licensee filed a renewal application within the time specified in (a) above, unless the application has been denied, as specified in Section 87041.

87033 APPLICATION FOR RENEWAL OF LICENSE (Continued)**87033**

- (c) Pending the issuance of a renewal license pursuant to (b) above, the current license shall remain in effect.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524 and 1525, Health and Safety Code.

87034 SUBMISSION OF NEW APPLICATION**87034**

- (a) A licensee shall file a new application as required by Section 87018 whenever there is a change in conditions or limitations described on the current license.
- (1) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of a fire clearance, if needed.

HANDBOOK BEGINS HERE

- (2) Changes commonly overlooked but which require that a new application be filed include:
- (A) Any change in the location of the home.
- (B) Any change in facility category.
- (C) A permanent change in any child from ambulatory to nonambulatory status.

HANDBOOK ENDS HERE

- (b) An applicant shall file a new application whenever an applicant fails to complete an application within the time required by Section 87027(b) if the applicant chooses to continue the application process.
- (c) A licensee shall file a new application whenever a licensee fails to file a renewal application within the time limit required by Section 87033(a).

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87035 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE**87035**

- (a) Conditions for forfeiture of a foster family home license may be found in Section 1524 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies.
- (f) The licensee abandons the facility.

HANDBOOK ENDS HERE

- (1) "Licensee abandons the facility" shall mean either of the following:
- (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or

87035**CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME
LICENSE (Continued)****87035**

- (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - 1. The licensing agency requests information of the licensee's whereabouts from an adult at the facility if an adult can be contacted; and
 - 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
 - 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.
 - (2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 283 12/91) and evidence of the licensee's death as defined in Section 87001(e)(3).
 - (A) Notwithstanding the instructions on the Application for License (LIC 283 12/91), the Department shall permit the relative to submit only the information on the front side of that form.
 - (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.

87035	CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE (Continued)	87035
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- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87030.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1523, 1524(e), 1530, and 1530.5, Health and Safety Code. Reference: Sections 1523, 1524, and 1524(e), Health and Safety Code.

87036	APPLICATION/RENEWAL PROCESSING FEE	87036
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- (a) No application/renewal processing fee shall be charged to foster family homes.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1523 and 1524, Health and Safety Code.

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Article 4. ADMINISTRATIVE ACTIONS**87040 DENIAL OF INITIAL LICENSE****87040**

- (a) Except as specified in Section 87030, which provides for issuance of a provisional license, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessment pursuant to Section 87065 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) The Department may deny any license as specified in Health and Safety Code Section 1550.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1550 states:

"The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

HANDBOOK ENDS HERE

87040 DENIAL OF INITIAL LICENSE (Continued)**87040**

- (3) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

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HANDBOOK CONTINUES

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.
2. Harm by reason of intentional neglect or malnutrition or sexual abuse.
3. Going without necessary and basic physical care.
4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

HANDBOOK ENDS HERE

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87040 DENIAL OF INITIAL LICENSE (Continued)**87040**

- (b) If the application for an initial license is denied, the licensing agency shall mail the applicant a written notice of denial.
- (1) The notification shall inform the applicant and set forth the reasons for the denial and shall advise the applicant of the right to appeal.
- (c) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.

HANDBOOK BEGINS HERE

- (d) Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing.

Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

HANDBOOK ENDS HERE

- (e) Notwithstanding any appeal action, the foster family home is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1525, 1526, 1547, and 1550, Health and Safety Code.

87041 DENIAL OF A RENEWAL LICENSE**87041**

- (a) The licensing agency shall have the authority to deny an application for a renewal license under the following circumstances:
 - (1) The home has serious deficiencies as defined in Section 87001s.(1) at the time of the renewal.
 - (2) The department has taken action to suspend or revoke the license or to seek other remedies as provided by law.
- (b) If the application for a renewal license is denied, the licensing agency shall mail the licensee a written notice of denial by certified mail.
 - (1) The notification shall inform the licensee of, and set forth the reasons for, the denial, and shall advise the licensee of the right to appeal.
- (c) The licensee shall have the right to appeal the denial of the application for renewal pursuant to Health and Safety Code Section 1526.

HANDBOOK BEGINS HERE

- (d) Health and Safety Code Section 1526 reads:

Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein.

HANDBOOK ENDS HERE

- (e) When a renewal application is denied and the licensee appeals the denial, the licensing agency shall, upon written request from the licensee within the 15-day period, issue a license pending adoption by the director of a decision on the denial action.

87041 DENIAL OF A RENEWAL LICENSE (Continued)**87041**

- (f) An application for renewal licensure shall not be denied solely on the basis that the licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (1) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (2) Section 273(a) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3, or 4 years.

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

HANDBOOK CONTINUES

87041 DENIAL OF A RENEWAL LICENSE (Continued)**87041**

HANDBOOK CONTINUES

- (3) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

- (D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.
2. Harm by reason of intentional neglect or malnutrition or sexual abuse.
3. Going without necessary and basic physical care.
4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524, 1525, 1526 and 1531.5, Health and Safety Code.

87042 REVOCATION OR SUSPENSION OF LICENSE**87042**

- (a) The department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Section 1550.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1550 specifies the following grounds:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

" (b) Aiding, abetting or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

" (c) Conduct which is inimical to the health, morals, welfare or safety of either an individual in, or receiving services from the facility or the people of the State of California.

" (d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

" (e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

HANDBOOK ENDS HERE

- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

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87042 REVOCATION OR SUSPENSION OF LICENSE (Continued)**87042**

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Chapter 5, commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

(A) When the director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action, by serving the licensee with an accusation, and shall advise the licensee of the right to a hearing.

(B) The licensee shall have the right to a hearing prior to the revocation or suspension of a license, except as provided in (1) below.

(1) The director shall have the authority to temporarily suspend any license prior to any hearing when in his/her opinion such action is necessary to protect the children in the foster family home from any physical or mental abuse or any other substantial threat to health or safety.

(2) When the director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and shall concurrently serve the licensee with an accusation.

(C) The director shall, within 15 calendar days of receipt of notice of defense, request the Office of Administrative Hearings to set the matter for hearing.

(D) For a revocation and temporary suspension action, the director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the Notice of Defense.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1531, and 1550, Health and Safety Code.

87043 LICENSEE/APPLICANT COMPLAINTS**87043**

HANDBOOK BEGINS HERE

- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of the regulations in this chapter.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY**87044**

- (a) The department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1533, 1534, and 1538.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, to secure compliance with, or to prevent a violation of any provision of this chapter.

Foster family homes shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint, or unless an inspection is made within 120 days prior to license renewal. The unannounced visit shall be made only once during the 120-day period prior to license renewal, and shall not constitute the annual evaluation visit.

HANDBOOK CONTINUES

87044**INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING
AGENCY (Continued)****87044**

HANDBOOK CONTINUES

Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours", as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than State holidays.

- (2) Section 1534 provides, in part:

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The state department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

- (3) Health and Safety Code Section 1538 provides in part:

- (A) Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter such facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

HANDBOOK CONTINUES

**87044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING
AGENCY(Continued)**

87044

HANDBOOK CONTINUES

- (B) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.
- (C) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.
- (D) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to interview any child in the home, and to inspect and audit the children's or the home's records without prior consent.
 - (1) The licensee shall make provisions for private interviews with any child and for the examination of all records relating to the operation of the home.

87044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY (Continued) 87044

- (c) The licensing agency shall have the authority to observe the physical condition of the child, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the child.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1531, 1533, 1534 and 1538, Health and Safety Code.

87045 EVALUATION VISITS 87045

- (a) Every home shall be evaluated as specified in Health and Safety Code Sections 1533 and 1534.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1533 provides in part:

Any duly authorized officer, employee or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision and services at any time, to secure compliance with, or to prevent a violation of any provision of this chapter.

Foster family homes shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint, or unless an inspection is made within 120 days prior to license renewal. The unannounced visit shall be made only once during the 120-day period prior to license renewal, and shall not constitute the annual evaluation visit.

Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours", as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than State holidays.

HANDBOOK CONTINUES

87045 EVALUATION VISITS (Continued)

87045

HANDBOOK CONTINUES

- (2) Health and Safety Code Section 1534 provides:

Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The state department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to make any number of additional visits to a facility in order to determine compliance with applicable law and regulation.
- (c) Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507.5, 1530.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

87046 EXCLUSIONS**87046**

- (a) An individual can be prohibited from being employed, allowed in, and to have contact with clients in a licensed facility as specified in Health and Safety Code Section 1558.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1558 states:

“(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

HANDBOOK CONTINUES

HANDBOOK CONTINUES

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

HANDBOOK CONTINUES

87046 EXCLUSIONS (Continued)**87046****HANDBOOK CONTINUES**

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

HANDBOOK CONTINUES

"(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

"(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1558, Health and Safety Code.

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Article 5. ENFORCEMENT PROVISIONS**87051 SERIOUS DEFICIENCIES****87051**

HANDBOOK BEGINS HERE

- (a) The following are examples of regulations which, if not complied with, nearly always result in a serious deficiency.
- (1) Section 87010 relating to limitations on the capacity or ambulatory status of the children.
 - (2) Section 87010.1 relating to limitations on the capacity of specialized foster family homes.
 - (3) Section 87010.2 relating to dual licensure of specialized foster family homes.
 - (4) Section 87019 relating to criminal record clearance.
 - (5) Section 87020 relating to fire clearance.
 - (6) Section 87021 relating to water supply.
 - (7) Section 87065.1 relating to specialized in-home health care training and health screenings for staff in specialized foster family homes.
 - (8) Section 87072 relating to children's rights.
 - (9) Section 87073 relating to telephone service.
 - (10) Section 87075(k) relating to storing and dispensing medications.
 - (11) Section 87076 relating to food storage, preparation and service.
 - (12) Section 87087 relating to safety of children's accommodations.
 - (13) Section 87087.1 relating to safety of accommodations for children with special health care needs.

87051 SERIOUS DEFICIENCIES
(Continued)**87051**

- (14) Section 87088(a) - (a)(2) and (i) - (i)(1) relating to hot water temperature and toilet facilities.
- (15) Section 87088(j) relating to storage and disposal of solid wastes.
- (16) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in 87001s.(1).

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87052 DEFICIENCIES IN COMPLIANCE**87052**

- (a) When an evaluator visits a home and determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of a visit, the licensee, or other person in charge of the home shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide a notice of deficiency to the licensee by one of the following:
 - (1) Personal delivery to the licensee, at the completion of the visit.
 - (2) If the licensee is not at the home, leaving the notice with the person in charge, at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the licensee.
- (d) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the statute or regulation which has been violated.

87052 DEFICIENCIES IN COMPLIANCE (Continued)**87052**

- (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the home in which it occurred.
- (3) The plan developed, as specified in (b) above, for correcting each deficiency.
- (4) A date by which each deficiency shall be corrected.
 - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
 - 1. The potential hazard presented by the deficiency.
 - 2. The number of children affected.
 - 3. The availability of equipment or personnel necessary to correct the deficiency.
 - 4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
 - (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
 - (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify corrective actions which must be taken within 30 calendar days to begin correction.
 - (D) The evaluator shall have the authority to require correction of a deficiency within 24 hours or less if there is an immediate threat to the health or safety of the clients.
- (5) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the home is located.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1534, Health and Safety Code.